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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY ______ DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 2846

UNITED STATES OF AMERICA, Plaintiff, v. **Peter Michael MARTIN (D1)** and **Sandra KOLE (D2)** Defendants.	)	Magistrate Case No. ________ COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1324(a)(2)(B)(iii)- Bringing in Illegal Alien(s) Without Presentation

The undersigned complainant being duly sworn states:

On or about **December 9, 2007**, within the Southern District of California, defendant **Peter Michael MARTIN (D1)** and **Sandra KOLE (D2)**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely **Sandra GUTIERREZ-Garcia**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said alien and upon arrival did not bring and present said alien immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs and ~~Border Protection~~ Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **10TH** DAY OF **DECEMBER**, 2007.

UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

The complainant states that **Sandra GUTIERREZ-Garcia** is a citizen of a country other than the United States; that said alien has admitted she is deportable; that her testimony is material, that it is impracticable to secure her attendance at the trial thereof by subpoena; and she is a material witness in relation to this criminal charge and should be held or admitted to bail as prescribed in Title 18, United States Code, Section 3144.

On December 9, 2007 at about 0058 hours, **Peter Michael MARTIN (D1)** applied for entry into the United States from Mexico through the San Ysidro Port of Entry as the driver of a grey Mercury Topaz. Accompanying D1 was **Sandra KOLE (D2)**. A Customs and Border Protection (CBP) Officer obtained a negative Customs declaration from D1. D2 stated to the CBP Officer that she was visiting a friend in Mexico. The CBP Officer performed a name query on D2 and obtained a computer generated referral. The CBP Officer subsequently escorted both defendants and the vehicle to secondary for further inspection.

In the secondary lot, a CBP Officer discovered a person concealed in a modified spare tire well compartment. A CBP Enforcement Officer attempted to open the spare tire area of the vehicle and noticed what appeared to a Hispanic woman concealed in the compartment. The CBP Enforcement Officer noticed a piece of plywood covered with carpet appeared to be the access panel to the spare tire compartment area. The CBP Enforcement Officer lifted and removed the plywood allowing the woman to exit the compartment. The concealed woman was identified as Sandra GUTIERREZ-Garcia, a citizen of Mexico without entitlements to enter or reside in the United States. She is now identified as the Material Witness in the case.

During a videotaped proceeding, D1 was advised of his Miranda rights. D1 acknowledged his rights and elected to answer questions without an attorney present. D1 admitted an unknown woman offered him an opportunity to make $1000.00 (USD) by driving a vehicle containing aliens across the border. D1 stated he was instructed to drive a vehicle across the border but denied knowing where he was to deliver it. D1 stated D2 drove the vehicle from Tijuana, Mexico all the way to the border. D1 stated he took charge of the vehicle at the port of entry and drove into the United States. D1 stated D2 was to call a set of telephone numbers once they crossed the border. D1 stated he was to deliver the vehicle back to Tijuana, Mexico and receive the $1000.00 (USD) for the smuggling act.

During a videotaped proceeding, D2 was advised of her Miranda Rights. D2 acknowledged her rights and elected to answer questions without an attorney present. D2 admitted knowledge of the smuggling act. D2 stated she and D1 were to deliver the vehicle used in the smuggling act to an unknown location off the Palomar Street highway exit. D2 admitted observing a Hispanic woman enter the vehicle. D2 admitted she was also told a female was concealed in the vehicle. D2 admitted she drove the vehicle used in the smuggling act and turned it over to D1 at the port of entry.

During a video-recorded interview, Material Witness admitted she is a citizen of Mexico by birth in Tuxla, Chiapas, Mexico. Material Witness admitted she does not possess legal documents to enter into the United States. Materiel Witness admitted her aunt made arrangements and was to pay approximately $3000.00 USD for her to be smuggled into the United States. Material Witness stated she was going to Los Angeles, California to seek residency and attend school. MW stated a blonde woman wearing a black jacket and a man with long hair were present when she was entering the compartment.